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8 **UNITED STATES DISTRICT COURT**

9 **DISTRICT OF NEVADA**

10 KWAME LUANGISA, an individual,) Case No.: 2:11-cv-00951-RCJ-LRL
11)
12 Plaintiff,)
13 vs.)
14 INTERFACE OPERATIONS LLC, a Delaware)
15 limited liability company, formerly known as)
16 ADFAM, LLC, a Nevada limited liability)
17 company; SHELDON G. ADELSON, an)
18 individual; and DOES I through X; and ROE)
19 CORPORATIONS I through X,)
20)
21 Defendant.)
22)
23)
24)
25)
26)
27)
28)

**PLAINTIFF KWAME
LUANGISA'S RESPONSE TO
DEFENDANTS' REPLY (#80)
TO THE DECLARATION OF
COSTS AND FEES (#75)**

20 Plaintiff KWAME LUANGISA, by and through his undersigned counsel, hereby submits
21 the following Response to Defendants' Reply (#80) to the Declaration of Costs and Fees (#75).
22 This Response is made and based upon the following points and authorities, the exhibits attached
23 hereto, and any oral argument as may be presented at the hearing thereof.

25 **POINTS AND AUTHORITIES**

26 **I. INTRODUCTION**

27 In their Reply, Defendants Interface Operations LLC and Sheldon G. Adelson
28 ("Defendants") attack the basis for Plaintiff Kwame Luangisa's Declaration of Costs and Fees



1 (#75) incurred in bringing the Emergency Motion to Compel and for Sanctions (#33) and
 2 opposing Defendants' Counter motion for Protective Order and for Sanctions (#41). Simply put,
 3 Defendants should not be heard to complain about the requested billing rates and hours worked
 4 when it was Defendants' own malfeasance that necessitated the foregoing motion work.
 5

6 It is undisputed that the Court imposed monetary sanctions against Defendants as a result
 7 of "Adelson's refusal to answer questions [in his deposition] based upon his counsel's
 8 continuous suggestive, argumentative, and unnecessary objections [that] improperly impeded and
 9 frustrated fair examination of Adelson during the deposition." *See Order* (#65), p. 18:14-16.
 10 This brazen disrespect for the Federal Rules of Civil Procedure undoubtedly justifies the award
 11 of attorneys fees and costs requested in the Declaration (#75). To be sure, nothing in
 12 Defendants' Reply should dissuade the Court from its previous determination.
 13

14 **II. ARGUMENT**

15 Defendants' primary argument is that the hourly billing rate of Plaintiff's lead counsel
 16 Donald J. Campbell, Esq. is excessive for the Las Vegas legal market. Defendants also take
 17 issue with the hourly billing rate of J. Colby Williams, Esq. despite the fact that he had minimal
 18 involvement with the briefing in question. Defendants further allege that Plaintiff's counsel
 19 improperly utilized the services of four attorneys including three partners to work on "basic"
 20 discovery briefing which could have been delegated to less experienced counsel. Finally,
 21 Defendants argue that Plaintiff's counsel charged for so-called "clerical work" that should have
 22 been performed by non-lawyer employees. None of these contentions are persuasive.
 23

24 **A. The Billing Rates Of Donald J. Campbell, Esq. And J. Colby Williams, Esq.
 25 Are Reasonable And Common In The Las Vegas Market.**

26 Plaintiff does not dispute that the Court should consider "the prevailing market rates in
 27 the relevant community" in awarding attorneys fees. *See Blum v. Stenson*, 465 U.S. 886, 895
 28 (1984). Plaintiff further recognizes that some courts have declined to award fees at comparable



1 rates with those of Messrs. Campbell and Williams. Defendants' argument that the billing rates
 2 of Plaintiff's counsel are unreasonable, however, ignores the extensive qualifications of Messrs.
 3 Campbell and Williams and evidences defense counsel's unfamiliarity with the Las Vegas legal
 4 community.

5 In relation to the briefing that is the subject of the Declaration, Mr. Campbell billed 18.7
 6 hours at a rate of \$750. Mr. Williams, on the other hand, only billed 1.4 hours at a rate of \$600.
 7 These hourly rates are consistent with the regular billing schedule employed by the law firm of
 8 Campbell & Williams. *See Exhibit "1," Declaration of Donald J. Campbell, Esq.* The basis for
 9 these rates is facially apparent from the extensive qualifications of Messrs. Campbell and
 10 Williams. *Id.* The Court is familiar with the quality of Plaintiff's counsel's work, and it is
 11 likewise important to note that Plaintiff was granted *all* of the requested relief with regard to Mr.
 12 Adelson's farcical deposition.

13 Moreover, it is common for courts to award Plaintiff's counsel fees in accordance with
 14 their normal billing schedule. *See Exhibit "1," Declaration of Donald J. Campbell, Esq.* For
 15 example, Messrs. Campbell and Williams were recently awarded attorneys fees at rates of \$600
 16 and \$500, respectively, in state court litigation that concluded in 2010.¹ *See Exhibit "2," Motion*
 17 *for Attorneys Fees; Exhibit "3," Order Granting Motion for Attorneys Fees.* In awarding such
 18 fees, Judge Susan J. Johnson expressly noted that "\$500 plus per hour rates are not uncommon or
 19 unreasonable" in Las Vegas. *See Exhibit "3," Order Granting Motion for Attorneys Fees.*

20 In addition, Defendants' position that the billing rates of Plaintiff's counsel are double
 21 those of comparable attorneys in the Las Vegas market is again erroneous. *See, e.g., Exhibit "4,"*
 22 Bailey Kennedy's Motion to Withdraw, Exh. 1 (billing rates of \$750 and \$550 for named

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 27 ¹ *Ken Shamrock, Inc. v. Zuffa, LLC*, Case No. A561085, Eighth Judicial District Court for
 28 Clark County, Nevada.

1 partners in Bailey Kennedy); Exhibit "5" Declaration of James Pisanelli, Esq. in Support of
 2 Request for Attorneys Fees and Costs, Exh. 2 (billing rates of \$550 for named partners in
 3 Pisanelli Bice PLLC); Exhibit "6," Affidavit of Paula Armeni in Support of Request for
 4 Attorneys Fees and Costs, p. 5 (billing rate of \$650 for Dominic Gentile, Esq.; a partner at
 5 Gordon Silver).² As such, billing rates in excess of \$600 are not uncommon for attorneys with
 6 similar qualifications and experience as Messrs. Campbell and Williams.
 7

8 Defendants also argue that Plaintiff's counsel should not be adequately compensated for
 9 work they glibly describe as "basic discovery briefing" in "straightforward" litigation. *See*
 10 Reply, pgs. 2:5, 5:7-9, 7:4. Surely, these inaccurate assertions are a result of defense counsel's
 11 recent appearance because—as His Honor is well aware—this case has been anything but "basic"
 12 and "straightforward." To the contrary, Plaintiff's every attempt to advance discovery has been
 13 met with a motion for protective order; the majority of which were found to be utterly baseless.³
 14 *See Order (#65)*, pgs. 2-4. In addition to this unnecessary motion work, Defendants have gone so
 15 far as to pursue contempt sanctions against Plaintiff's counsel in both federal and state court.⁴
 16 Accordingly, Defendants' assertion that the instant action has been uncomplicated could not be
 17 farther from the truth.
 18

21 ² The pleadings were filed in a case styled *OBI, LLC et al v. Mark A. James et al.*, Case
 22 No. A605985, Eighth Judicial District Court for Clark County, Nevada.

23 ³ In fact, the only discovery motion filed by Defendants that was granted was based on the
 24 misrepresentations of their erstwhile counsel Patrick H. Hicks, Esq. *See Order, (#65)*, p. 3 fn. 3.

25 ⁴ The Honorable Chief Judge Jones summarily denied Defendants' request to hold
 26 Plaintiff's counsel in contempt for exposing the lies disseminated by Las Vegas Sands
 27 Corporation about the conduct of Mr. Campbell during a previous deposition of Adelson. *See*
 28 Order (#46). Undeterred, Defendants—through prior counsel at Littler Mendelson and their new
 29 counsel at Lionel Sawyer & Collins—reopened the underlying state case by filing a similarly
 30 misleading motion for order to show cause. *See Exhibit "7," Motion for Order to Show Cause.*
 31 Plaintiff's counsel has since filed a comprehensive Opposition and are awaiting a ruling from the
 32 state court. *See Exhibit "8," Opposition to Motion for Order to Show Cause.*



1 Setting aside the myriad of obstructions that inevitably accompany litigation against
 2 Adelson and his affiliated companies, there is no question that the rates billed by Plaintiff's
 3 attorneys are perfectly normal in the Las Vegas legal market and appropriate under the
 4 circumstances. Indeed, Plaintiff identified the billing rates of counsel more than a month ago in
 5 the Declaration (#73) attesting to the fees incurred in Adelson's aborted deposition. Notably,
 6 Defendants did not object to the billing rate and amount of fees set forth therein. While
 7 Defendants conveniently claim that this failure to object was simply a good faith gesture, they
 8 are estopped from taking an inconsistent position now. Based on the foregoing, the Court should
 9 approve the respective billing rates of Messrs. Campbell and Williams as set forth in the
 10 Declaration (#75).

11 **B. Defendants' Arguments Regarding Plaintiff's Counsel's Division Of Labor
 12 Are Entirely Meritless.**

13 Defendants allege that Plaintiff's counsel's fees should be reduced because they assigned
 14 three partners to work on "basic discovery motions" while utilizing only one associate. *See*
 15 Reply, p. 7. This could, of course, be a valid argument in some circumstances but it undeniably
 16 fails here.

17 To begin with, the law firm of Campbell & Williams consists of just four attorneys; three
 18 partners and one associate. *See* Exhibit "1," Declaration of Donald J. Campbell. As noted in the
 19 Declaration of Fees and Costs (#75) and Defendants' Reply (#80), all four attorneys employed
 20 by Campbell & Williams worked on the briefing at issue.⁵ The reason that Plaintiff was forced
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 26 ⁵ Contrary to Defendants' assertions, the majority of the work (approximately two-thirds)
 27 was performed by counsel of record, Mr. Campbell and the undersigned attorney, Philip R.
 28 Erwin, Esq. *See* Declaration of Costs and Fees (#75), Exh. 1. Defendants further state that Mr.
 Erwin billed only 6.3 hours on the Reply in Support of the Motion to Compel in comparison to
 the 14.5 hours billed by the three partners. *See* Reply, p. 7:16-17. That is incorrect. Rather, Mr.
 Erwin billed 15.3 hours of time spent drafting and editing the brief. *Id.*

1 to utilize all four attorneys in the firm is readily apparent once the truncated time frame in which
 2 they had to prepare the relevant briefing is taken into consideration.

3 Mr. Campbell terminated Adelson's deposition at approximately 9:47 a.m. on October 6,
 4 2011, and the Motion to Compel and for Sanctions (#33) was filed less than six hours later. In
 5 fact, the turnaround was so quick that it prompted Defendants' laughable accusation that
 6 Plaintiff's counsel had "pre-drafted" the motion in order to manufacture a discovery dispute. *See*
 7 Opposition and Counter motion for Protective Order (#41). Plaintiff's counsel was then tasked
 8 with responding to Defendants' ludicrously verbose response and counter motion in less than two
 9 days. In light of these facts is it any wonder that Plaintiff's counsel had to employ four attorneys
 10 to prepare the relevant briefing?

11 Irrespective of the time constraints placed on Plaintiff's counsel, it is well settled that an
 12 award of attorneys fees should not be reduced for lack of delegation when the claimant is a small
 13 law firm. *See, e.g., Poston v. Fox*, 577 F.Supp. 915, 919-20 (D. N.J. 1989) (noting that in "a
 14 small office, it is not always possible to delegate tasks to others"); *Roldan v. Philadelphia*
 15 *Housing Auth.*, 1999 WL 1167658, *5 (E.D. Pa. December 7, 1999) (refusing to reduce award of
 16 attorneys fees to small firm where there was no less experienced attorney available to perform
 17 work); *Chaid v. Glickman*, 1999 WL 33292940, *13-16 (N.D. Cal. 1999) (rejecting argument
 18 that award of attorneys fees should be reduced where senior attorneys performed tasks which
 19 could have been delegated to less experienced attorneys because of the intricacies of the "small
 20 shop model").

21 Based on the foregoing, the Court should decline to reduce the attorneys fees requested
 22 by Plaintiff on the baseless grounds that his counsel utilized the services of all four attorneys in
 23 the law firm.



1 **C. Defendants Out-Of-Context Presentation Of The Undersigned's Billing**
 2 **Records Does Not Warrant A Reduction In Fees.**

3 Finally, Defendants misconstrue the wording of Mr. Erwin's billing entries in order to
 4 argue that he spent multiple hours drafting, editing, and preparing *the exhibits* to the motion to
 5 compel and reply thereto. The banality of this argument is evident in that there was just one
 6 exhibit to the Motion to Compel (#31), a DVD, and only two exhibits to the Reply and
 7 Opposition to the Counter motion (#41), the deposition transcript and an e-mail. A cursory
 8 examination of these exhibits reveals that none of them required original thought or extensive
 9 preparation. In reality, almost all of Mr. Erwin's time was spent drafting and editing the
 10 respective briefs. *See* Exhibit "9," Declaration of Philip R. Erwin, Esq. This clearly does not
 11 constitute "clerical work." Regardless, Defendants should be precluded from questioning the
 12 division of labor in Plaintiff's counsel's law firm in light of its small size and the abbreviated
 13 time frame to prepare the subject briefing.

14 **III. CONCLUSION**

15 Based on the foregoing, Plaintiff respectfully requests that this Honorable Court award all
 16 attorneys fees and costs previously requested in the Declaration (#75).

17 DATED this 13th day of January, 2012.

18 CAMPBELL & WILLIAMS

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CERTIFICATE OF SERVICE

The undersigned hereby certifies that service of the foregoing was completed on the 13th of January, 2012 via the Court's CM/ECF electronic filing system addressed to all parties on the e-service list.

/s/ Philip R. Erwin, Esq.
An Employee of Campbell & Williams



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